



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Lyn Utrecht
Utrecht, Kleinfeld, Fiori, Partners
1900 M Street, NW Suite 500
Washington, DC 20036

MAR - 3 2017

RE: MUR 7059

Dear Ms. Utrecht:

On June 27, 2016, the Federal Election Commission notified your clients, Loretta Sanchez, Loretta Sanchez for Senate and Ashleigh Aitken in her official capacity as treasurer (the "Respondents"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). On February 22, 2017, the Commission found, on the basis of the information in the complaint and the response submitted by you, that there is no reason to believe that the Respondents violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Christopher L. Edwards, the attorney assigned to this matter, at (202) 694-1568.

Sincerely,

 w/ permission

Lynn Y. Tran
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

1707444071

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Human Rights for Vietnam PAC and Don Le in his
official capacity as treasurer
Saigon Broadcasting Television Network
Viet Tan North America Corp.
Loretta Sanchez
Loretta Sanchez for Senate and Ashleigh Aitken in
her official capacity as treasurer

I. INTRODUCTION

The Complaint makes a variety of claims against Human Rights for Vietnam PAC and Don Le in his official capacity as treasurer, Saigon Broadcasting Television Network, former Congresswoman Loretta Sanchez, and Loretta Sanchez for Senate and Ashleigh Aitken in her official capacity as treasurer (collectively, "Respondents"), stemming from their alleged dealings with the Vietnam Reform Party ("Viet Tan"). Because the Complaint does not set forth a sufficient factual basis for believing that the Respondents violated any provision of the Federal Election Campaign Act of 1971, as amended (the "Act"), the Commission finds no reason to believe that the Respondents violated the Act as alleged.

II. FACTUAL AND LEGAL ANALYSIS

Human Rights for Vietnam PAC ("HRV PAC") is a multi-candidate political action committee that registered with the Commission on March 3, 2012.¹ Viet Tan represents itself as a pro-democracy organization that works to promote social justice and human rights within

¹ See Statement of Organization, Human Rights for Vietnam PAC (Mar. 3, 2012).

1 Vietnam through non-violent means.² Viet Tan is based in Vietnam, but describes itself as
2 having members and supporters in “most Vietnamese communities overseas.”³

3 At the time of the events at issue in the Complaint, Loretta Sanchez was a United States
4 Congresswoman for the state of California and a 2016 candidate for United States Senate in
5 California. Loretta Sanchez for Senate was the principal campaign committee for her 2016
6 Senate run.⁴ Saigon Broadcasting Television Network, Inc. (“Saigon Broadcasting”) is a 24-
7 hour Vietnamese language channel that describes itself as “programmed to meet the needs of
8 Vietnamese audiences living outside Vietnam.”⁵ Saigon Broadcasting is registered as a
9 corporation in the State of California and is headquartered in Garden Grove, California.⁶

10 The Complaint makes allegations against these Respondents that appear to raise three
11 types of issues that implicate the Act: (1) potential corporate contributions from Saigon
12 Broadcasting to the Sanchez Committee and HRV PAC, (2) potential foreign national
13 contributions to the Sanchez Committee, and (3) potential reporting omissions by HRV PAC.
14 The Commission discusses each of these issues in turn below.

15 **A. Alleged Corporate Contributions by Saigon Broadcasting**

16 The Act and Commission regulations prohibit any corporation from making a
17 contribution in connection with a Federal election, and prohibit any candidate or political

² Viet Tan – Vietnam Reform Party, *Why Viet Tan* (English translation), <http://www.viettan.org/Why-Viet-Tan.html> (last visited Jan. 6, 2017).

³ *See id.*, *Who We Are*, <http://www.viettan.org/Who-We-Are.html> (last visited Jan. 6, 2017).

⁴ *See* Amended Statement of Organization, Loretta Sanchez for Senate (June 18, 2015). Representative Sanchez and Loretta Sanchez for Senate will be referred to collectively as the “Sanchez Committee.” Representative Sanchez ultimately lost her campaign for the Senate.

⁵ Saigon Entertainment Television, LLC, About the SBTN Network, <http://sct574.com/sbtn-saigon-broadcasting-television-network/> (last visited Jan. 13, 2017).

⁶ *See id.*; California Secretary of State Business Entity Search, <https://businesssearch.sos.ca.gov/> (last visited Jan. 6, 2017).

1 committee from knowingly accepting or receiving such a contribution, including all in-kind
2 contributions.⁷ Further, Federal candidates may not solicit, receive, direct, transfer, or spend
3 money in connection with an election for Federal office unless the funds are subject to the
4 limitations, prohibitions, and reporting requirements of the Act.⁸

5 1. Contributions to Sanchez Committee

6 The Complaint alleges that Saigon Broadcasting provided the Sanchez Committee with
7 impermissible corporate in-kind contributions by providing free airtime, organizing phone banks,
8 and hosting fundraising events for her election campaigns.⁹ The Complaint specifically
9 identifies two fundraising events that were allegedly hosted by Saigon Broadcasting on July 31,
10 2015, and February 27, 2016, to support the Sanchez Committee.¹⁰ In support of the allegation,
11 the Complaint includes only a copy of a poster advertising the February 27 event, and a tweet
12 sent out by Saigon Broadcasting's CEO and President purportedly about the July 31 event. The
13 tweet includes a picture of the CEO and Sanchez "during the midst of our LIVE benefit concert
14 to support her campaign for California Senate Race 2016."¹¹

15 The Sanchez Committee asserts that a group of volunteers hosted and ran the February 27
16 event and that the Complaint presents no specific factual information to show that Saigon

⁷ 52 U.S.C. § 30118(a); *see also* 52 U.S.C. § 30101(8)(A)(i).

⁸ 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61. The Act provides that a contribution includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A). The term "person" for purposes of the Act and Commission regulations includes partnerships, corporations, and "any other organization or group of persons." *Id.* § 30101(11); 11 C.F.R. § 100.10.

⁹ Compl. at 5. The Complaint states that Saigon Broadcasting has supported Sanchez because of their mutual desire to advance Viet Tan's cause. *Id.* at 15.

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 5.

1 Broadcasting was involved.¹² Further, nothing in the poster included in the Complaint, which
2 purports to show Saigon Broadcasting's involvement in the event, appears to connect Saigon
3 Broadcasting to the event.¹³ In light of the Complaint's failure to present any information or
4 specific facts suggesting that Saigon Broadcasting participated in the February 27, 2016
5 fundraiser, we have no reason to conclude that Saigon Broadcasting made in-kind contributions
6 in connection with the event.

7 With regard to the July 31 event, both the Sanchez Committee and Saigon Broadcasting
8 state that Saigon Broadcasting was involved, but that the Committee paid Saigon Broadcasting
9 for its involvement.¹⁴ The available information supports these representations. With its
10 response, Saigon Broadcasting provided the Service Agreement entered into between it and the
11 Committee, which shows that Saigon Broadcasting agreed to provide three hours of airtime for
12 the fundraiser, along with six commercial spots per day, for one month, advertising the
13 fundraiser.¹⁵ Further, the Sanchez Committee's filings show a disbursement made on August 18,
14 2015, to Saigon Broadcasting in the amount of \$4,500 for a "media buy."¹⁶ The information in
15 the record, therefore, does not provide information supporting the allegation that Saigon
16 Broadcasting made in-kind contributions in connection with the July 31 event.

17 Based on the foregoing, the Commission finds no reason to believe that Saigon
18 Broadcasting violated 52 U.S.C. § 30118 by making corporate contributions, and no reason to

¹² Resp. of Sanchez Committee at 2 (Sept. 9, 2016).

¹³ Compl. at 6.

¹⁴ Resp. of Sanchez Committee at 2; Resp. of Saigon Broadcasting at 1-2 (Aug. 11, 2016).

¹⁵ Resp. of Saigon Broadcasting, Ex. 1.

¹⁶ 2015 October Quarterly Report at 167, Loretta Sanchez for Senate (Oct. 15, 2015).

1 believe that the Sanchez Committee violated 52 U.S.C. §§ 30118 or 30125 by accepting
2 corporate contributions.

3 2. Contributions to HRV PAC

4 The Complaint further asserts that HRV PAC was established and funded by Saigon
5 Broadcasting.¹⁷ Though it does not allege any specific violation of the Act in connection with
6 this factual assertion, if Saigon Broadcasting established and funded HRV PAC, such activity
7 may result in Saigon Broadcasting making corporate contributions to HRV PAC in violation of
8 52 U.S.C. § 30118.¹⁸ The Complaint primarily attempts to support its allegation by asserting that
9 two Saigon Broadcasting employees hold administrative positions with HRV PAC.¹⁹ This fact,
10 by itself, does not support a conclusion that Saigon Broadcasting has made prohibited corporate
11 contributions because no information suggests that the employees' HRV PAC positions are
12 connected to their employment at Saigon Broadcasting.²⁰ Neither the Complaint nor the
13 information presented provides any additional basis to believe that Saigon Broadcasting
14 improperly administered or was affiliated with HRV PAC in violation of the Act. The
15 Commission therefore finds no reason to believe that Saigon Broadcasting violated 52 U.S.C.
16 § 30118 by making corporate contributions to HRV PAC.

17

¹⁷ Compl. at 13-15.

¹⁸ See 52 U.S.C. § 30101(7); 11 C.F.R. § 114.5(b).

¹⁹ Compl. at 13.

²⁰ See generally 52 U.S.C. § 30118(a). The Act prohibits corporations from making contributions to any federal candidate or political committee. *Id.* The Act provides that a contribution includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." *Id.* § 30101(8)(A). The term "person" for purposes of the Act and Commission regulations includes partnerships, corporations, and "any other organization or group of persons." *Id.* § 30101(11); 11 C.F.R. § 100.10.

B. Alleged Foreign National Contributions to Sanchez Committee

The Act prohibits foreign nationals from making contributions in connection with Federal, state or local elections.²¹ Foreign nationals include foreign principals (including foreign political parties) and individuals who are not citizens of the United States or a national of the United States who is not lawfully admitted for permanent residence.²²

The Complaint alleges that the Sanchez Committee received contributions from Viet Tan members because of Sanchez's ties to the group.²³ The Complaint further alleges that Sanchez hired Viet Tan member Lilly Nguyen as a member of her staff in exchange for the contributions from Viet Tan members.²⁴ The Sanchez Committee denies receiving illegal contributions and states that Nguyen was hired based on her qualifications.²⁵

To the extent that the Complaint can be construed to allege that any of the Respondents violated the Act's ban on foreign national contributions, the Complaint lacks facts supporting that allegation.²⁶ The Complaint does not present information indicating that any of the alleged

²¹ 52 U.S.C. § 30121(a).

²² 52 U.S.C. § 30121(b).

²³ Compl. at 6.

²⁴ *Id.* at 11.

²⁵ Resp. of Sanchez Committee at 3.

²⁶ The Complaint repeatedly alleges that HRV PAC made improper donations to Vietnamese nationals, specifically asserting that HRV PAC illegally transferred \$34,000 to entities in Vietnam, including around 120 "Viet Tan members and sympathizers." See Compl. at 3-5. HRV PAC concedes that it sends donations to human rights activists in Vietnam based on the financial need of those activists and asserts that such activity is legal. Resp. of HRV PAC at 1-2, Ex. 1 (Aug. 11, 2016). HRV PAC also says that it does not consider whether a potential recipient is a member of Viet Tan when making donations. *Id.* So, while the available information supports the assertion that HRV PAC has donated to Vietnamese nationals, those donations do not appear to violate any provision of the Act. See Advisory Op. 2015-06 (Waters) (concluding that a leadership PAC, authorized campaign committee, and federal candidate in her personal capacity could all contribute to a foreign candidate); Advisory Op. 2015-02 (Grand Trunk Western Railroad -- Illinois Central Railroad PAC) at 3 n.2 (noting that foreign entity's "receiving of donations does not implicate the Act's prohibition on foreign nationals making any contribution or donation in connection with an election" (emphasis in original)). Further, any allegations regarding liability stemming from HRV PAC's funding of criminal activity, are outside the jurisdiction of this agency. As such, we make no recommendations regarding allegations relating to HRV PAC's disbursements to Vietnamese nationals.

1 Viet Tan members who have contributed to the Sanchez Committee are foreign nationals.²⁷
2 Further, the Committee's disclosure reports show that all of the contributors mentioned in the
3 Complaint have U.S. addresses.²⁸ With respect to the hiring of Nguyen, the Sanchez Committee
4 states that she was well-qualified when she was hired by Sanchez and that she was not hired in
5 exchange for contributions.²⁹ Given the absence of any specific facts demonstrating possible
6 violations of the Act, the Commission finds no reason to believe that Sanchez or the Sanchez
7 Committee violated 52 U.S.C. § 30121(a) as alleged.

8 **C. Alleged Reporting Omissions by HRV PAC**

9 As a multi-candidate political action committee, HRV PAC is required to file reports of
10 receipts and disbursements in accordance with 52 U.S.C. § 30104(a)(4) and (b).

11 The Complaint alleges that HRV PAC failed to include certain contributions from
12 individuals in its disclosure reports and falsely claimed to transfer money to entities in Vietnam,
13 despite not actually transferring that money.³⁰ In support, the Complainant attached a sworn
14 affidavit (with an accompanying exhibit) attesting that he issued a public announcement asking
15 for HRV PAC contributors to contact him.³¹ As a result of this request, the Complainant asserts
16 that he learned of more than 180 individuals "who made cash donations and were not asked to
17 fill out forms"³² The affidavit calculates these contributions as being worth \$21,654.³³ The

²⁷ See Compl. at 6-10.

²⁸ See *id.* at 7-9.

²⁹ Resp. of Sanchez Committee at 3.

³⁰ See Compl. at 15; Supp. Compl. (July 18, 2016).

³¹ Compl., App. 6.

³² *Id.*

³³ *Id.*

1 accompanying exhibit purports to identify these unreported contributions, but the information in
2 the exhibit is mostly incomprehensible.³⁴

3 The Complainant also submitted a supplemental submission alleging that HRV PAC
4 accepted large amounts of unreported cash at a fundraising event on May 12, 2013, and suggests
5 that the money was improperly transferred to Viet Tan.³⁵ HRV PAC's Response says that all
6 contributions were properly reported and attaches an affidavit in support.³⁶ The affidavit
7 describes the process used to collect funds during the May 12 fundraiser, and says that because
8 the fundraiser was a telethon, that some individuals who pledged to contribute during the
9 telethon later withdrew their pledged contributions.³⁷

10 Notwithstanding the Complaint's allegations, neither the exhibit that was filed to support
11 the appendix nor the supplemental filing provides evidence showing that contributions were not
12 reported. Instead, a sample review of the contributors identified in both Appendix 6 and the
13 supplemental submission confirms that those contributions were reported to the Commission as
14 required under the Act. Without any factual support for the allegations, the Commission finds no
15 reason to believe that the Sanchez Committee violated 52 U.S.C. § 30104 by failing to report
16 receipts and disbursement as alleged.

³⁴ See *id.*, Ex. B. For example, Exhibit B contains entries such as "A_CANTHO \$60," "con ac mong 7_4 \$120," and "Gauden-003 \$50." *Id.* It is not clear how the description that accompanies each contribution is supposed to identify the source of that contribution. The exhibit also does not show when each contribution was made.

³⁵ Supp. Compl. at 1.

³⁶ Resp. of HRV PAC at 2-3, Ex. 2.

³⁷ *Id.*